

Remarks

The Office Action 1) rejected claims 1-7, 9-11, 15-21, 23 and 24 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,489,346 B1 to Phillips ("Phillips I") and 2) rejected claims 8, 12-14, 22 and 25-29 as being unpatentable over U.S. Patent No. 5,840,737 to Phillips ("Phillips II") in view of Phillips I.

The rejection of the claims under 35 U.S.C. 102(e) as anticipated by Phillips I is improper because Phillips I does not teach a combination of pharmaceutical carriers as currently claimed. Thus, this rejection should be withdrawn.

The rejection under 35 U.S.C. 103(a) over Phillips II in view of Phillips I is misplaced because a prima facie case of obviousness has not been made for the claimed invention. In particular, similarly to Phillips I, Phillips II does not disclose the combination of carriers currently claimed. The Office Action attempts to supplement this deficiency in Phillips II with Phillips I which is characterized as disclosing the use of sodium carbonate. However, the Abstract disclosure of sodium carbonate in Phillips I does not remedy the deficiency of Phillips II. In particular, Phillips I does not disclose combinations of carbonate and bicarbonate carriers as is currently claimed. In the context of the entire disclosure of Phillips I, sodium bicarbonate is merely mentioned as an alternative buffer that can be employed. There is no disclosure of a combination of buffers. Moreover, neither Phillips reference recognizes the benefits of such a combination as explained in applicants' specification on page 5 lines 13-16. Withdrawal of this rejection is requested.

Entry of this Response and allowance of claims 1-29 is respectfully requested.
Alternatively, entry of this Response for consideration in an Appeal is requested.

If any additional fee might be required in connection with this matter, please charge our
Deposit Account No. 23-0785.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

By _____

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I hereby certify that this correspondence is being deposited with the United States Postal Service, as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 1450 on June 16, 2004.

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